

YADKIN COUNTY BOARD OF COMMISSIONERS
REGULAR MINUTES
Monday, October 19, 2009

The Yadkin County Board of Commissioners met in Regular Session on Monday, October 19, 2009, in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, North Carolina.

Present were:

Chairman Chad Wagoner
Vice Chairman Kevin Austin
Commissioner Tommy Garner
Commissioner David Moxley
Commissioner Brady Wooten

Staff present: County Attorney, James Graham; Interim Manager, Jim Haynes; and Clerk to the Board, Gina Brown.

CALL TO ORDER by Chairman Wagoner at 7:03pm.

INVOCATION led by James Graham.

PLEDGE OF ALLEGIANCE led by Walker Garner, a 6th grade student at West Yadkin Elementary School. Mr. Garner was accompanied by his parents and Mr. Charles Connor, Principal of West Yadkin.

ADJUSTMENTS TO/ADOPTION OF THE AGENDA

Commissioner Brady Wooten made a motion to approve the agenda as presented. Commissioner David Moxley second.

Vote: 5/0

PUBLIC COMMENTS

Public Comments portion of the meeting opened at 7:05pm.

Diane Doub of East Bend presented pictures of a recently rescued horse to depict the animal's poor condition. The horse is now in a rescue facility with the help of Yadkin County citizens, not the assistance of Yadkin County officials. In August Ms. Doub spoke with Nancy Keith, Cooperative Extension Director, regarding 50+ cows in a 9-10 acre space. Ms. Keith agreed that the cows did not have adequate grass to eat and appeared to be in poor condition. However, Ms. Keith stated that she did not have the legal authority to act. Ms. Doub asked what policies and procedures are in place for neglected and/or abused domestic and farm animals.

Public Comments portion of the meeting closed at 7:10 pm.

APPROVAL OF MINUTES

Commissioner Garner requested the following adjustment on page 1, last paragraph: change "sell" to "sale."

Commissioner Wooten requested the following adjustment on page 20 & 21: change "alternate types of construction" to "alternate project construction."

Commissioner Wooten made a motion to approve the September 21, 2009 Closed Session Minutes; September 28, 2009 Minutes of Joint Meeting with the Board of Education; September 29, 2009 Special Meeting Minutes; October 5, 2009 Regular Meeting Minutes; and October 5, 2009 Closed Session Minutes with noted adjustments. Vice Chairman Austin second. Vote: 5/0

PUBLIC HEARING

(1) Christopher Ong, Director of Planning & Development, gave a brief description of the rezoning petition for Mountmor Farm. The area covers 1251.2 acres in South Knob Township. The area is wooded, rugged, and rises in elevation from 1170 feet to 1750 feet. The area is agriculturally and residentially mixed. Site plans are adequate and the rezoning is consistent with Article 7, Section 4 of the Yadkin County Zoning Ordinance. The Planning Board voted 5/0 to recommend this rezoning request.

Public Hearing opened at 7:19 pm.

Kenny Reece, of the Rena Road area, stated that a neighbor had purchased 100 acres near Mr. Reece. This property included restrictions. Mr. Reece asked if his property would be subject to restrictions as well to which Mr. Ong replied no. Mr. Ong noted that an RA district is less restrictive than an RR-CD district.

Public Hearing closed at 7:21pm.

Chairman Wagoner read the Statement of Zoning Consistency for 1251.2 acres of Mountmor Farm...

"October 19, 2009

Statement of Zoning Consistency Pursuant to NCGS 153A-342

Re: Proposed rezoning of 1252+ acres, being all of Parcel # 485900418915, in the Arlington area, from the Rural Agriculture (RA) District to the Restricted Residential – Conditional (RR-CD) District.

As we, the Yadkin County Board of Commissioners, have found this property to be located near existing restricted residential-zoned properties with established residential uses, and near the intersection of an arterial road (Highway 21) and collector roads (Howell School Road and Rena Road); and further have found the proposed addition to be encouraged by the Yadkin County Land Use Plan.

We find the above referenced proposal for rezoning to be consistent with the guidelines for the Restricted Residential District in Article 7, Section 4 of the Yadkin County Zoning Ordinance.

We further find the above referenced proposal for rezoning to be consistent with the guidelines for residential development in section 5.7.7. of the Yadkin County Land Use Plan.

We find the conditions to be included as site specific to this proposed RR-CD rezoning request are: the proposed layout, land use, structures and open space as outlined on the attached proposed development plans with the further condition that each phase of development shall meet the approval of the Yadkin County Planning Board and the plans presented with each phase of development shall not deviate from the intent of the original proposed development plans.

We therefore consider the proposed rezoning to be reasonable and in the public interest."

Vice Chairman Austin made a motion to accept the Statement of Zoning Consistency. Commissioner Wooten second.

Vote: 5/0

Vice Chairman Austin made a motion to approve the rezoning of Mountmor Farm of 1251.2 acres in the Arlington area from RA to RR-CD.

Commissioner Wooten second.

Vote: 5/0

Chairman Wagoner read the Statement of Zoning Consistency for 120+ acres of Mountmor Farm...

"October 19, 2009

Statement of Zoning Consistency Pursuant to NCGS 153A-342

Re: Proposed rezoning of 1252+ acres, being all of Parcel # 485800876733, in the Arlington area, from the Rural Agriculture (RA) District to the Restricted Residential – Conditional (RR-CD) District.

As we, the Yadkin County Board of Commissioners, have found this property to be located near existing restricted residential-zoned properties with established residential uses, and near the intersection of collector roads (Fletch Road and Rena Road); and further have found the proposed addition to be encouraged by the Yadkin County Land Use Plan.

We find the above referenced proposal for rezoning to be consistent with the guidelines for the Restricted Residential District in Article 7, Section 4 of the Yadkin County Zoning Ordinance.

We further find the above referenced proposal for rezoning to be consistent with the guidelines for residential development in section 5.7.7. of the Yadkin County Land Use Plan.

We find the conditions to be included as site specific to this future development phase will be submitted for approval to the Yadkin County Planning Board and shall not materially deviate from the site specific conditions (proposed layout, land use, structures and open space) presented on the development plans submitted for Phase 1 of this development.

space as outlined on the attached proposed development plans with the further condition that each phase of development shall meet the approval of the Yadkin County Planning Board and the plans presented with each phase of development shall not deviate from the intent of the original proposed development plans.

We therefore consider the proposed rezoning to be reasonable and in the public interest.”

Vice Chairman Austin made a motion to accept the Statement of Zoning Consistency. Commissioner Moxley second.

Vote: 5/0

Vice Chairman Austin made a motion to approve the rezoning of 120+ acres in the Arlington Area from RA to RR-CD. Commissioner Garner second.

Vote: 5/0

(2) Jason Walker, Director Soil & Water, reported that the 5D Use Committee has developed a draft plan for the use of the 5D Lake and is now seeking public input on recreational uses in and around the area. The 5D Use Committee will incorporate allowable suggestions into the plan and make the final presentation. It was noted that the 5D Use Committee is made up of Commissioner Moxley, Tim Swaim, Phil Martin, Jack Loudermilk and Lenuel Chamberlain.

Public Hearing for the Use Plan of the 5D Lake opened at 7:31 pm.

Jimmy Steelman of Hamptonville stated that there is an old house in the area that could be used for boy scouts, girl scouts, etc. Mr. Steelman feels that boating (gas powered engines) would produce revenue. Mr. Steelman suggested that the State place docks for boating and fishing for easy access. Mr. Steelman surmised that a filtering plant would be in place before these tasks are complete.

Jerry Bryant of Yadkinville suggested horse riding trails and hiking trails.

Dr. James Arnold, a veterinarian in Yadkinville, suggested disc golf as an inexpensive recreational activity.

Public Hearing for the Use Plan of the 5D Lake closed at 7:36 pm.

Commissioner Wooten questioned general regulations regarding concealed weapons permits on page 2 of the draft. Mr. Walker will review the issue.

Chairman Wagoner and Vice Chairman Austin encouraged the public to visit the County website for an opportunity to provide input. Data from this link goes directly to Jason Walker.

Mr. Walker reported that restrictions are based on the classification of the lake. The 5D Lake is a Class 2 Reservoir. The Division of Water Resources has a Green Book that has all the requirements and restrictions for each class. Boating and swimming are regulated by the State with no County control.

BOARD APPOINTMENTS

Chairman Wagoner made a motion to reappoint David Buie, Allen Dixon and Scott Whitaker to the Crossroads Area Board as their terms expire December 31, 2009. Commissioner Garner second.

Vote: 5/0

Chairman Wagoner noted that these gentlemen have rarely missed a meeting. Vice Chairman Austin added that this board is very effective.

BOARD ACTION

(1) Randy Darden of JJ&G presented change orders #5, #6, and #7 for Haymes Brothers on the 5D Project.

Change Order #5 reflects additional construction days due to rainfall. Haymes is credited one work day when more than 3/10" of rain falls. These days are added to the final completion date.

Change Order

No. 5

Date of Issuance: 10/02/2009

Effective Date: 10/02/2009

Project: Deep Creek Waterfall Dam SD Owner: Yadkin County

Owner's Contract No.:

Contract:

Draw or Revision:

Contractor: Haymes Brothers, Inc.

Engineer's Project No.: CR210021.01

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Adjustment for rain days from 8/29/2009 to 8/31/2009

Attachments: (List documents supporting change):

Request letter from Haymes Brothers Inc. dated September 24, 2009 with detailed work-up to calculate days.

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$16,777,427.50

(Increase) (Decrease) from previously approved Change Order No. 01 to No. 04:

\$15,188.82

Contract Price prior to this Change Order:

\$16,822,614.12

(Increase) (Decrease) of this Change Order:

\$0.00

Contract Price incorporating this Change Order:

\$16,822,614.12

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working days ☒ Calendar days

Substantial completion (days or date): 878 days

Ready for final payment (days or date): 880 days

(Increase) (Decrease) from previously approved Change Order No. 01 to No. 04:

Substantial completion (days): 45

Ready for final payment (days): 46

Contract Times prior to this Change Order:

Substantial completion (days or date): 823

Ready for final payment (days or date): 896

(Increase) (Decrease) of this Change Order:

Substantial completion (days or date): 17

Ready for final payment (days or date): 17

Contract Times with all approved Change Orders:

Substantial completion (days or date): 638 days

Ready for final payment (days or date): 715 days

RECOMMENDED:

By: [Signature]
Engineer (Professional Seal)

ACCEPTED:

By: [Signature]
Owner (Authorized Signatory)

ACCEPTED:

By: [Signature]
Contractor (Authorized Signatory)

Date: 10/2/09

Date:

10/17/09

Date:

10/5/2009

Approved by Funding Agency (Optional):

Date:

ENRDC No. C-941 (2002 Edition)

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute.

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**Vice Chairman Austin made a motion to approve Change Order #5.
Commissioner Garner second.
Vote: 5/0**

Mr. Darden read the last sentence of the first paragraph of a letter from Thomas Fitzgerald regarding Change Order #6 which states: "This change came as a result of the slope not being excavated per the plans." Plans called for the slope to be blasted, but the use of hand materials was more economical. Blasting would have resulted in more concrete and more expense. Commissioner Garner asked Mr. Darden and Mr. Walker if they were satisfied with the work and both responded that they were.

Change Order

No. 6

Date of Issuance: 10/02/2009

Effective Date: 10/02/2009

Project: <u>Deep Creek Watershed Dam BD</u>	Owner: <u>Yadkin County</u>	Owner's Control No.:
Contract:		Title of Contract:
Contractor: <u>Haymes Brothers, Inc.</u>		Engineering Project No: <u>08210021.01</u>

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Additional payment for rock removal immediately downstream of manhole at station 22+50 for installation of 18-inch diameter ductile iron pipe drain outlet. Estimated 14 CY of rock removed. Unit price in contract is not applicable due to method of removal.

Attachments: (List documents supporting change):

Request letter from Haymes Brothers Inc. dated September 24, 2009.

CHANGE IN CONTRACT PRICE:

Original Contract Price:

\$18,777,437.50

(Increase) (Decrease) from previously approved Change Order No. 04 to No. 05:

\$45,106.62

Contract Price prior to this Change Order:

\$18,822,544.12

(Increase) (Decrease) of this Change Order:

\$2,871.62

Contract Price incorporating this Change Order:

\$18,825,415.74

CHANGE IN CONTRACT TIMES:

Original Contract Times: ☐ Working days ☒ Calendar days

Substantial completion (days or date): 675 days

Ready for final payment (days or date): 680 days

(Increase) (Decrease) from previously approved Change Order No. 04 to No. 05:

Substantial completion (days): 63

Ready for final payment (days): 63

Contract Times prior to this Change Order:

Substantial completion (days or date): 638

Ready for final payment (days or date): 713

(Increase) (Decrease) of this Change Order:

Substantial completion (days or date): 0

Ready for final payment (days or date): 0

Contract Times with all approved Change Orders:

Substantial completion (days or date): 638 days

Ready for final payment (days or date): 713 days

RECOMMENDED:

By: [Signature]
Engineer (Authorized Signature)

ACCEPTED:

By: [Signature]
Owner (Authorized Signature)

ACCEPTED:

By: [Signature]
Contractor (Authorized Signature)

Date: 10/2/09

Date:

10/12/09

Date:

10/5/2009

Approved by Funding Agency (if applicable):

Date:

EJCDC No. C-941 (2102 Edition)

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute.

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**Commissioner Wooten made a motion to approve Change Order #6.
Commissioner Garner second.
Vote: 5/0**

Change Order #7 reflects the use of blasted material in the spillway as opposed to rock as outlined in the original plans. There was little need for filler concrete, grout was along the bottom of the entire dam, and additional rebar was required. The net result of the plan versus the change order is \$34,038.

Change Order

No. 7

Date of Issuance: 10/12/2009

Effective Date: 10/12/2009

Project: Deep Creek Watershed Dam SD	Owner: Yaddo County	Contract Number:
Contract:		Date of Contract:
Contractor: Higgins Brothers, Inc.		Engineer's Project No.: DB210021.01

The Contract Documents are modified as follows upon execution of this Change Order:

Description: Modifications to the stilling basin include installation of reinforcing steel dowels grouted into the rock and a reinforcing steel mat in leveling concrete in accordance with Work Change Directive 02 issued on July 7, 2009. This change order reflects the additional cost of 2,412 square feet of reinforcing steel at \$30 per square foot. Other unit price items will also change resulting from the work change directive including Leveling Concrete, RCC, Cement for RCC, Fly Ash for RCC, Drilling Rebar Holes, Grout/Fill, and Drain Fills. Modifications to these unit price items will be resolved towards the end of the project after the final quantities have been verified. The anticipated modified quantities are marked on the copy of Work Change Directive 02 attached.

Attachments: (List documents supporting change):

Copy of Work Directive 02.

CHANGE IN CONTRACT PRICE:

CHANGE IN CONTRACT TIMES:

Original Contract Price:

\$18,777,427.50

Original Contract Times: ☐ Working days ☒ Calendar days

Substantial completion (days or date): 678 days

Ready for final payment (days or date): 660 days

(Increase) (Decrease) from previously approved Change Order No. 01 to No. 06

\$45,109.92

(Increase) (Decrease) from previously approved Change Order No. 01 to No. 06

Substantial completion (days or date): 63

Ready for final payment (days or date): 63

Contract Price prior to this Change Order

\$18,828,405.64

Contract Times prior to this Change Order

Substantial completion (days or date): 638

Ready for final payment (days or date): 713

(Increase) (Decrease) of this Change Order:

\$72,380.00

(Increase) (Decrease) of this Change Order

Substantial completion (days or date): 0

Ready for final payment (days or date): 0

Contract Price incorporating this Change Order:


\$18,897,845.64

Contract Times when all approved Change Orders:

Substantial completion (days or date): 638 days

Ready for final payment (days or date): 713 days

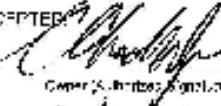
RECOMMENDED:

By: 
Engineer (Authorized Signature)

Date: 10/12/09

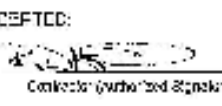
Approved by Lending Agency (if applicable):

ACCEPTED:

By: 
Owner (Authorized Signature)

Date: 10/12/09

ACCEPTED:

By: 
Contractor (Authorized Signature)

Date: 10/12/2009

Date:

EJCOC (No. C-94) (2003 Edition)

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Prepared by the Engineers' Joint Contract Documents Committee and endorsed by the Associated General Contractors of America and the Construction Specifications Institute.

Commissioner Wooten made a motion to approve Change Order #7.

Commissioner Moxley second.

Vote: 4/0 (Commissioner Garner had stepped out of the room.)

(2) Though not on the agenda, Chairman Wagoner asked Mr. Darden to speak briefly on the Eastern Water Study. Mr. Darden met with the Water Committee on October 8, 2009 to discuss three major options for getting water to East Bend and the Forbush Schools and to review the capital improvement plan for the County. The City of King buys approximately 200,000 gallons per day from the City of Winston Salem. It is more feasible to run waterlines from King to East Bend. There was some discussion of a 24" pipe that runs through the existing dam at Enon for future use. Commissioner Garner asked for the cost to run the pipe under the Yadkin River at Donnaha. Mr. Darden stated that earlier discussion had indicated a cost of \$50,000 while Commissioner Wooten suggested \$90,000. The current water study will be available in 2-3 weeks.

(3) Jim Haynes, Interim Manager, requested that the two ordinances for the Scattered Site Housing Program be combined as one, as suggested by the auditing firm. The first ordinance for \$360,000 will combine with the second ordinance of \$40,000 for a total of \$400,000. Attorney Graham stated no concerns for combining the two ordinances.

Scattered Site Housing – Project Ordinance

Capital Project Ordinance
Scattered Site Housing Project
CDBG Grant
October 2009

Be it ordained by the Yadkin County Board of Commissioners, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance be adopted:

Section 1: The Project authorized is to provide owner-occupied relocation assistance for low to moderate income households as specified by the Scattered Site Housing program.

Section 2: The Officers of this unit are directed to proceed with the project.


Section 3: The following amounts are appropriated for the project:

Rehabilitation Activities.....	\$360,000.00
Administration.....	\$ 40,000.00
	<u>\$400,000.00</u>

Section 4: The following revenues will be made available to complete the project:

NC Department of Commerce/CDBG.....	\$400,000.00
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Approved by the Yadkin County Board of Commissioners on this 19th day of October, 2009.


C. Chad Wagoner, Chairman


Attest

Commissioner Garner made a motion to approve the Scattered Site Housing Project Ordinance. Vice Chairman Austin second.

Vote: 5/0

(4) The Board reviewed a Budget Amendment for Yadkin County Schools reflecting action taken on October 5, 2009 allocating \$141,057 of capital reserve to Yadkin County Schools to equip the libraries at the new middle schools.

Date: October 6, 2009

General Fund

Dept: Schools

Description	Account Number	Original Budget	Increase/ (Decrease)	Amended Budget
Capital Outlay Expense	1055912-57001	1,005,000.00	141,057.00	1,146,057.00
Transfer from Capital Reserve	1044212-42412	-0-	141,057.00	141,057.00

To amend to transfer sales tax revenue set aside in the Capital Reserve Fund for schools in order for them to purchase library books for middle schools.

Date: October 6, 2009

Capital Reserve Fund

Dept:

Description	Account Number	Original Budget	Increase/ (Decrease)	Amended Budget
Transfer to General Fund	2154213-57070	-0-	141,057.00	141,057.00
Appropriated Fund Balance	2144213-49000	2,337,656.00	141,057.00	2,478,713.00

To amend to transfer sales tax revenue set aside in the Capital Reserve Fund for schools in order for them to purchase library books for middle schools.

Commissioner Wooten made a motion to approve the Budget Amendment for Yadkin County Schools. Commissioner Moxley second.

Vote: 5/0

Chairman Wagoner called for a recess at 8:15pm. Meeting resumed at 8:33pm.

MANAGER REPORTS/COMMENTS

Jim Haynes, Interim Manager, reported that he continues to work with the Department of Corrections for probation offices. No further information is available at this time.

CALENDAR NOTES

- (1) A ribbon-cutting ceremony for each of the new middle schools is tentatively scheduled for Monday, December 7, 2009, pending Board of Education approval.
- (2) A Community Open House for Forbush Middle School will take place on Saturday, October 31 from 12pm to 2pm.

COMMISSIONER COMMENTS

Vice Chairman Austin had this additional comment:

Vice Chairman Austin joked about breaking the computer at the recent YMCA Blood Drive.

Commissioner Garner had these additional comments:

- (1) Leanne Cloudman is the editor of *The Yadkin Ripple*, but not chief editor. Ms. Cloudman has no control over edits that are made in her reports.
- (2) Commissioner Garner recently received a complaint regarding the shooting of gunfire too close to a residence. Commissioner Garner has asked Ms. Cloudman to print the Yadkin County Shooting Ordinance in *The Yadkin Ripple* as hunting season is approaching.

Commissioner Moxley had this additional comment:

Commissioner Moxley reported a good trip to Pelham, Georgia to visit a modular jail facility and deferred further comment to Commissioner Wooten.

Commissioner Wooten had these additional comments:

Commissioner Wooten and Commissioner Moxley, representing the jail committee, traveled to Pelham, Georgia to visit a modular jail facility. The jail committee has not yet met to discuss the information that was gathered. Once the committee meets, Commissioner Wooten will present the Board with information and recommendations. Commissioner Wooten reported that the Police Chief of Pelham was very helpful and informative. Chairman Wagoner asked if the Police Chief is pleased with the facility to which Commissioner Wooten answered yes.

Commissioner Wooten made a motion to approve the out of state travel for Commissioner Wooten and Commissioner Moxley to Pelham, Georgia. Commissioner Garner second.

Vote: 5/0

There was some discussion of adding a representative from the Town of Yadkinville to the jail committee. The Board will review this matter once the jail committee has agreed and makes the request.

Chairman Wagoner had no additional comments at this time.

Attorney Graham had no additional items for discussion.

Chairman Wagoner asked Attorney Graham if Yadkin County currently had policies and procedures regarding animal suffering. Attorney Graham reported that there are North Carolina General Statutes that apply to animal cruelty. It would be the responsibility of the Sheriff's Office to enforce the statutes. Attorney Graham suggested that an individual could approach the magistrate with a claim of cruelty or neglect, but most often probable cause is determined by an enforcement officer. Further, Attorney Graham remarked that a case of this nature is very hard to win because it must address the offender's state of mind.

Commissioner Moxley reported that the Sheriff's Office has detectives that are trained to recognize and identify animal neglect and cruelty.

Vice Chairman Austin suggested that surrounding counties be contacted to learn of their policies and procedures regarding this issue.

Commissioner Garner made a motion to enter a Closed Session per NCGS 143-318.11 (a) (6). Commissioner Moxley second.

Vote: 5/0

Commissioner Moxley made a motion to end the Closed Session. Vice Chairman Austin second.

Vote: 5/0

Commissioner Wooten made a motion to adjourn. Commissioner Garner second.

Vote: 5/0

Meeting adjourned at 10:00pm.

Prepared by the Administrative Clerk
with editing by Clerk to the Board

Date Approved by the
Yadkin County Board of Commissioners